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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,563

12/07/2005

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Q88775

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EXAMINER

JONES, JAMES

ART UNIT

PAPER NUMBER

2873

MAIL DATE

DELIVERY MODE

06/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/540,563

**Applicant(s)**

KOBAYASHI ET AL.

**Examiner**

James C. Jones

**Art Unit**

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/24/2005, 9/25/2006, 5/10/2007</u>                           | 6) <input type="checkbox"/> Other: ____                           |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 6/24/2005, 9/25/2006, and 5/10/2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Kitano et al. (7224510) hereafter '510

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

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the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

'510 discloses the limitations therein including the following:

Regarding claim 1 '510 discloses an image display device which comprises an image display panel (abstract), in which two or more groups of particles having different colors and different charge characteristics are sealed in a plurality of cells formed by partition walls between two substrates (fig. 10(b), abstract, col. 18, ln. 34-40 "d41" and "d42" as the "particles", "d34" and "d33" as the "partition walls", and "d31" and "d32" as the "substrates") at least one of two substrates being transparent and, in which the particles, to which an electrostatic field produced by electrodes provided to both of the substrates is applied, are made to move so as to display an image(fig. 10(b), col. 18, ln. 34-40), characterized in that a coating area of the electrode provided on two substrates respectively is patternized with respect to a projected area of respective cells (fig. 10(b), col. 6, ln. 17-67, col. 17, ln. 33-45).

Regarding claim 2 '510 discloses the image display device according to claim 1, wherein at least one of the electrodes provided on the two substrates respectively has a coating area in respective cells of 5-99% with respect to a projected area of respective cells (fig. 10(b) col. 6, ln. 17-67, col. 17, ln. 33-45 note: the electrodes are formed of an insulating coat layer so the electrode inherently will have a coating area).

Regarding claim 3 '510 discloses the image display device according to claim 1, wherein at least one of the electrodes provided on the two substrates respectively has a coating area in respective cells of 30-90% with respect to a projected area of respective

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cells (fig. 10(b) col. 6, ln. 17-67, col. 17, ln. 33-45 note: that the claimed range falls within the claimed range set forth in claim 2).

Regarding claim 4 '510 discloses the image display device according to claim 2, wherein a contact dimension between at least one of the electrodes provided on the two substrates respectively and the partition wall is less than 50% of an inner peripheral dimension of respective cells (fig. 8(b) and 8(c), "c4" as the "electrode").

Regarding claim 5 '510 discloses an image display device which comprises an image display panel (abstract), in which two or more groups of particles having different colors and different charge characteristics are sealed in a plurality of cells formed by partition walls between two substrates (fig. 10(b), abstract, col. 18, ln. 34-40 "d41" and "d42" as the "particles", "d34" and "d33" as the "partition walls", and "d31" and "d32" as the "substrates"), at least one of two substrates being transparent, and, in which the particles, to which an electrostatic field produced by electrodes provided to both of the substrates is applied, are made to move so as to display an image (fig. 10(b), col. 18, ln. 34-40), characterized in that, in the case of arranging the image display panel vertically in a stationary manner, the electrode is patternized in such a manner that no electrode portion is formed at a vertically lower portion in respective cells (fig. 10(b), col. 6, ln. 17-67, col. 17, ln. 33-45 "d37" and "d36" as the "electrodes" note: that in the case of arranging the image display vertically the electrode "d37" will be in the vertical position and the electrode "d37" is pattern in such a manner that none of electrode "d37" will be in the lower portion in the respective cell).

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Regarding claim 6 '510 discloses the image display device according to claim 5, wherein an area of the no electrode portion formed at a vertically lower portion in respective cells is 5-50% with respect to a projected area of respective cells (fig. 10(b) based off the figures disclosed in '510 and the broadly claimed range the image display device of '510 will inherently have a no electrode portion, wherein the area of the no electrode portion formed at a vertically lower portion in respective cells is 5-50%).

***Allowable Subject Matter***

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: with respect to the allowable claims, none of the prior art either alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103.

Regarding claim 7, none of the prior art either alone or in combination disclose or teach of the claimed image display device specifically including as the distinguishing features in combination with the other limitations, the claimed "area of the no electrode portion formed at a vertically lower portion in respective cells is 15-45% with respect to a projected area of respective cells".

**Conclusion**

Ikeda et al.(20030048521), Takagi et al.(20060087718), and Yamaguchi et al.(6407763) are being cited herein to show reference that discloses some similar features to that of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Jones whose telephone number is (571) 270-1278. The examiner can normally be reached on Monday thru Friday, 8 a.m. to 5 p.m. est. time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*James C. Jones 6/21/2007*  
JCJ

  
**JORDAN SCHWARTZ**  
**PRIMARY EXAMINER**